

ORDERED SEALED BY COURT

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA **18 MJ 1596**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BENJAMIN JAMES NAZARIO,


Defendant.

MAGISTRATE CASE NO. _____

COMPLAINT FOR VIOLATION OF:Title 18, United States Code § 2252(a)(4)(B) -
Possession of visual depictions of
minors engaged in sexually explicit conduct**FILED**
MAY 21 2008CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY _____ DEPUTY

The undersigned Complainant, being duly sworn, states:

On or about August 6, 2007, within the Southern District of California, defendant BENJAMIN JAMES NAZARIO did knowingly possess one and more matters, to wit, a computer, that contained visual depictions that had been shipped in interstate and foreign commerce and that were produced using materials that had been mailed and shipped and transported in interstate and foreign commerce, by various means including by computer, and the production of said visual depictions involved the of minors engaging in sexually explicit conduct as the term is defined in Title 18, United States Code, Section 2256, and the visual depictions were of such conduct; in violation of Title 18, United States Code, Section 2252(a)(4)(B). Complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.


Daniel P. Evans
Special Agent, FBI

Sworn to me and subscribed in my presence this 20th day of May, 2008.


ANTHONY J. BATTAGLIA
UNITED STATES MAGISTRATE JUDGE

1 **STATEMENT OF FACTS**

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3 I am a Special Agent with the Federal Bureau of Investigation (FBI), and have been so employed
4 for approximately 3 years. I am currently assigned to Cyber Division of the San Diego field office,
5 where I investigate crimes concerning child exploitation and the receipt, possession, production, and
6 transmission of child pornography.

7 On July 24, 2007, your affiant received information from a Senior Staff IT Security Engineer for
8 Qualcomm Incorporated, about a contracted employee's use of a personal computer on the company's
9 network to download child pornography.

10 During a review of network logs, Qualcomm's network security team noticed an internal
11 employee had used a peer-to-peer file sharing program on July 19, 2007 to request and download files
12 containing child pornography names. Qualcomm Networking and security personnel were able to
13 determine that BENJAMIN JAMES NAZARIO, a security guard, was the user responsible for this
14 network traffic. They further confirmed that the computer in question was likely a personally-owned
15 laptop that did not belong to the company.

16 On August 3, 2007, a Qualcomm Network Engineer reviewed the network logs for July 19,
17 2007. The Engineer located the files in question and extracted the hash value for a file named "Babyj
18 27 (5Yo Preteen Lolita) Strips - Self Fingering - Fucked Girl Nobull Right On-Just About Everything
19 And Good Quality Too(Pthc Kiddy Pedo).mpg". This hash value represented the unique identifier of
20 the file requested for download.

21 On August 3, 2007, your affiant confirmed that the above-mentioned hash value was an exact
22 match for a file containing video footage of a young prepubescent girl engaging in sexual acts. Portions
23 of this video have previously been identified by the National Center for Missing and Exploited Children
24 as child pornography.

25 Based on this and other information, a federal search warrant was obtained for the residence of
26 NAZARIO. On August 6, 2007 this warrant was executed by the Federal Bureau of Investigation and
27 members of the Internet Crimes Against Children (ICAC) task force.

1 During the execution of this warrant agents interviewed NAZARIO at his place of employment.
2 After being advised that he was not under arrest, NAZARIO admitted to downloading and viewing child
3 pornography on his laptop computer. He then turned over his laptop, which he had with him at work.


4 After a second warrant was issued for the laptop, a forensic analysis was conducted which
5 revealed video files containing child pornography. Among these video files were images of children
6 previously identified by the National Center for Missing and Exploited Children (NCMEC) as known
7 victims of child molestation. The following descriptions relate to several of the video files found on
8 NAZARIO's laptop computer:

- 9 A. Video clip containing numerous prepubescent females. Most clips show adult males
10 ejaculating in the mouth or vagina of the young girls.
- 11 B. Long video clip depicting numerous girls engaging in various sexual acts including oral
12 sex, vaginal sex, and masturbation. Many of the clips show adult males ejaculating on
13 or in the prepubescent girls.
- 14 C. Video clip of a prepubescent female performing oral sex on an adult male before having
15 vaginal sex.
- 16 D. Video of a prepubescent female performing oral sex on an adult male and masturbating.
17 The end of the clip shows a close up of the girl's vagina.
- 18 E. Video clip of an adult male having vaginal sex, anal sex, and oral sex with a
19 prepubescent female. The clip ends with the male ejaculating into the female's anus.
- 20 F. Video clip of an adult female molesting a prepubescent female and showing her child
21 pornography on a computer.
- 22 G. Video file depicting a prepubescent female performing oral sex on an adult male. The
23 end of the clip shows close-ups of the girl rubbing her vagina.
- 24 H. Video file depicting an adult male having vaginal sex with a young prepubescent female.
- 25 I. Video file of a young female dancing nude in a bedroom.
- 26 J. Video file depicting a prepubescent female removing her clothes and performing oral sex
27 on an adult male.
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1 K. Video file of an adult male having vaginal sex with a young female. Face is never
2 displayed.
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Request for Sealing

It is further respectfully requested that this Court issue an Order sealing, until further order of this Court, all papers submitted in support of this complaint, including the probable cause statement and arrest warrant. Sealing is necessary because premature disclosure of the contents of this probable cause statement and related documents may cause the defendant to flee and may cause destruction of evidence and may have a negative impact on this continuing investigation.


Daniel P. Evans
Special Agent, FBI